



Maine Revenue Services

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Guidance Document

MAINE ESTATE TAX

AN INTRODUCTION TO THE VALUATION AND FILING PROCESSES

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INTRODUCTION

Although there has been much discussion about the estate tax in recent years, very few people are ever involved with a taxable estate. In any one year, Maine Revenue Services receives approximately 500 estate tax returns with a tax liability. For 2008, only those estates worth more than \$1 million will be taxable to Maine. In some cases, however, even estates worth more than \$1 million will not be taxable, as long as the assets are transferred to a surviving spouse or other deductions (such as charitable contributions) reduce the taxable estate to less than \$1 million.

Far more estates – over 2,000 for deaths in 2004 – file Maine estate tax returns even though no tax is due. These are filed as part of a request to remove the “automatic” lien that is imposed on all estate real and tangible property located in Maine. The simple form, Form 706ME-EZ, has been created for non-taxable estates with property valued at less than \$1 million. If an estate is taxable, or close to being taxable, you might want to consider enlisting the help of a professional estate tax preparer, who will be able to assemble and file all of the appropriate documents. A professional, however, is not required to complete a Maine estate tax return, either Form 706ME-EZ or Form 706ME.

HELPFUL RESOURCES

Maine Revenue Services has many resources for assisting in the preparation of estate tax returns. Following is a list of publications and contact information.

MRS web site: www.maine.gov/revenue

Downloadable forms: www.maine.gov/revenue/forms/estate

General information: www.maine.gov/revenue/incomeestate/estate

Maine estate tax law: www.maine.gov/revenue/rules, follow the “Title 36” link at the top of the page, then scroll down to chapter 575.

Email: estatetax@maine.gov

Telephone: 207-626-8480

Fax: 207-624-9694

Mail: Maine Revenue Services
Income/Estate Tax Division
P.O. Box 1068
Augusta, Maine 04332-1068

IRS web site: www.irs.gov

BACKGROUND

The federal estate tax, enacted in 1916, is a tax on the transfer of a person's property at the time of that person's death. The tax is imposed on the transfer rather than on the property or on the privilege of a beneficiary to receive the property. Until 2002, the Maine estate tax was equal to the federal state death tax credit, as calculated on the federal estate tax return, Form 706. Beginning in 2002, the federal estate tax began to phase out, with eventual repeal slated for 2010. Maine has partially decoupled from federal estate tax law, which has resulted in some estates being taxable to Maine but not at the federal level.

Despite Maine's decoupling from federal law, only a small minority of estates are taxed. This document is designed to help someone who is not a professional apply the basic principals of the Maine estate tax to determine if an estate is liable for tax. If the estate is not taxable, this document will assist the reader in completing a simple return.

If the decedent owned property in Maine, it often is a good idea to file an estate tax return along with a request for lien release, even if an estate is not subject to the Maine estate tax. Many buyers of property or banks that loan money secured by property will require a lien release prior to final purchase or approval of a loan. When an individual dies, leaving property located in Maine, an automatic lien is placed on that property and is not released until a completed lien release is filed with Maine Revenue Services. If there is any outstanding estate tax, that too must be paid prior to the release of the lien. Once the lien is released, the beneficiary receiving the property may sell it absent the Maine lien.

Maine Revenue Services has designed a simple form for filing an informational return (Form 706ME-EZ) to accompany a certificate of discharge of estate tax lien for those estates that are not taxable (\$1 million or less of gross value).

If the estate contains any real or tangible personal property, such as a home, land, motor home, or watercraft, the personal representative may complete a certificate of discharge of estate tax lien and attach it to Form 706ME-EZ, to request a release of the automatic estate tax lien on that property. The personal representative can contact the registry of deeds in the county where real property is located for help completing the certificate of discharge.

Following are the steps to file a nontaxable estate tax return using Form 706ME-EZ with a certificate of discharge of estate tax lien.

STEP 1 – Demographic Information

The personal representative must complete the demographic information in Step 1 of the form. The first four lines are for information about the decedent. The term “domicile” means the state of legal residence of the decedent at the date of death. For more information about domicile and residence, see “Maine Revenue Services Guidance to Residency Status” at: www.maine.gov/revenue/incomeestate/guidance.

It is important to enter the decedent's permanent address of legal residence, rather than the address where the decedent died, if different. For example, if a person who lived in Maine was in New York on a business trip when he/she died, enter the decedent's home address in Maine and not the hotel address in New York. Likewise, if a person who is domiciled in Maine is visiting relatives in Seattle, Washington for an extended period of time (even months) and dies while with those relatives, the decedent's domicile or state of legal residence is still Maine.

Also included in Step 1 is information about the personal representative. The personal representative, sometimes called an executor, is the person appointed to administer the estate. This person, often a family member, is named in the will of the decedent. If the decedent's will does not designate a personal representative, usually the county judge of probate will appoint one. Enter that person's information in the bottom half of Step 1.

STEP 2 – Authorization of a Third Party

Completing this step authorizes Maine Revenue Services to discuss the contents of the return with the estate representative named in this section. Normally, this would be filled in with the preparer's name and address, if a professional preparer were completing this return. If this section is left blank, Maine Revenue Services will only talk to the personal representative about this estate and the corresponding tax return. In any event, all correspondence from Maine Revenue Services will go to the personal representative listed under Step 1, even if Step 2 is completed.

STEP 3 – Residency Status

Next, the representative must check the appropriate residency box in Step 3. A decedent is a resident of his or her state of domicile. For more information about state of domicile, see “Maine Revenue Services Guidance to Residency Status”, located on the web site at: www.maine.gov/revenue/incomeestate/guidance/res_pamphlet.htm.

STEP 4 – Estate Information

The personal representative (or estate representative) must complete lines 1, 2 and 3. The worksheet for line 3, total gross estate, is located on page 2 of Form 706ME-EZ. The worksheet is used to calculate the value of the decedent's assets. Once these three lines are completed, the personal representative must sign the return. If a paid preparer completed this return, that person must also sign the return.

The property included on the worksheet must be included at full value, no matter where it is located (Maine or out-of-state) and prior to the reduction by any associated debt, such as mortgage debt on a home. The full value of all property is included on this worksheet even if the decedent is not a resident of Maine. **If the gross estate in the “everywhere” column of the worksheet (line 13) is greater than \$1 million, Form 706ME must be filed instead.** The personal representative may subtract debt and allocate Maine and non-Maine property only on Form 706ME, not on Form 706ME-EZ.

Following is a list of the individual lines on the worksheet for Form 706ME-EZ and a description of the contents for each line, as well as methods for assigning value to the property on each respective line.

Worksheet for Form 706ME-EZ Maine Estate Tax Information Return for Lien Discharge

If a line from this worksheet contains a dollar amount, proof of value must be included with the decedent's estate tax return. In most cases, the value can be verified with the documents mentioned in the instructions below. In some cases, however, more documentation may be requested by MRS.

Line 1: Real Estate

Real estate includes land, buildings, the decedent's house and other items of that nature that are wholly in the decedent's name (shared real property is included on line 5). There are several ways to value real estate. For estates that are not close to being valued at \$1 million, acceptable valuation methods ordinarily include the municipal property valuation, sales of comparable houses in the neighborhood, or a valuation by a real estate agency. Often realtors will provide valuations for free. **Note: If an estate is taxable, or, if an estate is selected for audit, whether ultimately taxable or not, more formal methods may be necessary to determine value, such as professional property appraisals.**

The valuation of real estate is reported on Form 706ME-EZ at full value, regardless of any mortgage that may be held against the property. If the gross value of the estate in the “everywhere” column of the worksheet (line 13) is in excess of \$1 million, Form 706ME must be filed. All liabilities, which are included on a separate schedule on federal Form 706, will be included to reduce the gross value of the estate only on Form 706ME.

Line 2: Stocks and Bonds

This line is for the value of the decedent’s investments. To obtain the correct amount to enter on this line, contact the broker who maintained the accounts and ask for a date of death valuation. Normally, brokerage houses will perform this service for free. Alternately, the value of the decedent’s stocks and bonds may be taken from the last monthly statement prior to the date of death. The value of stocks and bonds may not be reduced by fees or other charges on Form 706ME-EZ. Fees and charges are allowed only on Form 706ME. Include savings bonds on this line. To determine the value of savings bonds, try an online calculator, such as the one at: http://www.savingsbonds.gov/indiv/tools/tools_savingsbond-calc.htm.

Line 3: Mortgages, Notes and Cash

Cash is the amount held in checking, savings or other bank accounts. Cash value at time of death can be obtained either from the decedent’s last bank statement or by contacting the bank for a date of death valuation.

Mortgages and notes are amounts owed to the decedent at the time of death by other parties and are valued based on the associated amortization schedules. Mortgages and notes are structured loan arrangements with an agreement to make payments on a predetermined schedule. For example, if the decedent had sold some land to an individual and there was a written agreement for that individual to pay for the land over a period of time, that mortgage amount would be included on this line. The amount to be included is the remainder of the loan that has yet to be paid to the decedent, plus unpaid accrued interest, at the date of death.

Line 4: Insurance on the Decedent’s Life

If the decedent had a life insurance policy that resulted in a payment after death, this payment is included in the decedent’s estate. The value of the life insurance payment may be substantiated either by federal Form 712 as completed by the insurance company or simply a photocopy of the check sent by the life insurance company.

Line 5: Jointly Owned Property

This line will most often contain real estate, such as houses and land that are owned by both spouses or by the decedent and one or more of that decedent's offspring. This line should also include any other jointly owned assets, such as joint checking accounts. If the decedent jointly owned property with a surviving spouse or another family member whose name was added to the deed for convenience or for purposes of avoiding the probate process, include on this line the full value of the property to the extent includible on federal Form 706 if a federal return was required (see Form 706, Schedule E). Do not divide the value between the decedent and the other owner or owners. If the decedent and other joint owner(s) received their parcel as a gift from a third party, enter the full value of the parcel on line 5. If the decedent gifted any portion of his property, enclose the appropriate gift tax return(s) (including appraisal) that were filed with the IRS in the year(s) of the gift. Do not include on this line the balance due of any mortgage or other loan secured by the property. If Form 706ME is filed, an accounting for the division of the value between the estate and other owners of the property and a reduction for any associated debt will be included as part of that return. If the deceased owns property with "others," you may attach a separate sheet of paper listing the other owner's names and percentage of ownership for each.

Line 6: Other Miscellaneous Property

Include on this line any items not included on another line. Typical items to include here are the contents of a safe deposit box, cars, boats, campers and other vehicles, coin collections and other personal property. For the vehicles, value may be obtained through the Kelley Blue Book or other such publication. Other valuation procedures may include estimates by the personal representative, using the sale price of similar items as a base. Include jointly owned property on line 5.

Line 7: Transfers during Decedent's Life

The typical item on this line is a revocable trust. A revocable trust is one that is set up by the decedent in which the decedent has full use and enjoyment of the assets held in the trust. This type of trust is often used to avoid the probate process. Then, at the death of the decedent, the remainder of the trust is distributed to the beneficiaries named in the trust document. During his/her life, the decedent may change, or revoke, all or part of the trust agreement. The value of a revocable trust must be included in the decedent/grantor's gross estate. Include on this line the value of all assets located in a revocable trust. This value can be obtained through a date-of-death valuation of the trusts assets from the trustee.

Line 8: Powers of Appointment

This line normally consists of the value of certain trusts. In this case, the trusts in question are those over which the decedent had control, other than a revocable trust included on line 7. Prior to death, the decedent may have been entitled to the trust proceeds and may have had some control of the trust assets. Include on this line the value of all assets located in such trusts. The value of these trusts can be obtained by a date-of-death valuation supplied by the trustee. If you are unsure if certain controls, or powers, that cause assets to be included in the decedent's estate, you may consider enlisting the help of a professional estate tax preparer.

Line 9: Annuities/Retirement Assets

Enter on this line the value of any retirement accounts owned by the decedent. Retirement accounts include IRAs, 401(k) accounts or some other account or annuity specifically designated for retirement purposes. For the correct value, ask the contract annuity company for a federal Form 712 equivalent or ask the bank for a date of death value. For brokerage IRAs, you may get a valuation from the broker.

Line 10: Trusts or Pass-through Interests

For all decedents, enter the value of the individual assets located in trusts and pass-through entities. Enter the value of assets not included on another line on this worksheet. All assets located in a trust of a Maine resident decedent are included in the estate value, whether or not the estate incurs a liability. Included on this line is also the value, at date of death, of the decedent's share of any pass-through entity.

Line 11: Maine Elective Property

If the decedent had a spouse whose death predates that of the decedent's, but occurred after 2004, there may be an amount to enter on this line. Check the Maine estate tax return of the previous decedent's estate for an amount on Form 706ME, line 4B, qualified terminable interest property ("QTIP"). If there is an amount on this line of the return, part of the current decedent's assets are considered Maine elective property. If an amount was entered on line 4B of the first decedent spouse's estate, most likely there was a trust created, naming the second decedent spouse as beneficiary. This trust would have been designated a QTIP trust. Enter here the date of death value (of the second, or current, decedent spouse) of the assets in this trust.

Line 12: Taxable Portion of Gifts Shown on Page 1, line 1a

Enter here the value of any taxable gifts made by the decedent. Taxable gifts are those gifts made by the decedent to any one person in any one year that exceed the annual federal gift tax exclusion. If a person gives an amount in excess of the exclusion to any one person in any one year, federal gift tax Form 709 should have been filed. If the decedent had previously filed Forms 709, attach copies to this return. The annual gift tax exclusion is adjusted for inflation. The dollar amounts for each year are:

\$12,000 for 2007
\$12, 000 for 2006
\$11,000 for 2002 through 2005
\$10,000 for 2001 and prior years

Line 13: Total Gross Estate

Add lines 1 through 12. Enter here and on line 3 of the return. If the amount on the worksheet, line 13, everywhere column is greater than \$1 million, Form 706ME-EZ cannot be used and Form 706ME (including federal pro forma Form 706) must be filed.

Line 14: Marital Deductions - Bequests to Surviving Spouse (Marital Deduction)

Enter here the value of property included on line 13 that is passed to the surviving spouse, if any.

Following are examples of estates and how to complete Form 706ME-EZ.

EXAMPLE #1 (See return for John Smith – attachment #1)

John Smith, a resident of Maine dies in 2006, leaving a home, a summer camp, a bank account balance and a life insurance policy. The value of these items is as follows.

Home	\$175,000
Camp	75,000
Bank Account	200,000
Life Insurance	100,000
Gross Estate	\$550,000

This total represents the entirety of John's assets and there was no surviving spouse to whom these assets could be left. Since the total value of all assets is less than \$1 million, the personal representative may file Form 706ME-EZ to obtain a lien release for the home and camp properties.

On the worksheet for Form 706ME-EZ, the home and camp are included on line 1 (Real Estate), the bank account is entered on line 3 (Mortgages, Notes and Cash) and the life insurance proceeds are included on line 4 (Insurance on the decedent's life). Along with Form 706ME-EZ and valuation documents, if the personal representative wants a discharge of estate tax lien, a certificate of discharge of estate tax lien must be filed to obtain a lien release for the home and camp. If the two properties are located in the same county, they can be included on one certificate of discharge. If, however, the properties are in two different counties, it will probably be more advantageous for the personal representative to include each property on a separate certificate of discharge. By applying for two separate discharges, the personal representative is able to supply each county administrator with the appropriate paperwork for the appropriate property.

EXAMPLE #2 (See return for Henry Jones – attachment #2)

The facts are the same as in the first example, except the name of the deceased is Henry Jones. Henry has also left a surviving spouse, Susan.

Home	\$175,000
Camp	75,000
Bank Account	200,000
Life Insurance	100,000
Gross Estate	\$550,000

This total represents the entirety of Henry's assets, but in this case there is a surviving spouse, Susan. Henry has decided to leave everything to Susan. Since, as in the first example, the total value of all assets is less than \$1 million, the personal representative may file Form 706ME-EZ to obtain a lien release for the home and camp properties.

The personal representative would complete the worksheet on the back of Form 706ME-EZ the same as in the first example, except for one difference. The total amount of \$550,000 is entered on line 14 of the worksheet. This line represents the value of the assets transferred to the surviving spouse.

Downloadable copies of Form 706ME-EZ and the certificate of discharge of estate tax lien are located here: www.maine.gov/revenue/forms.

For further information, call 207-626-8480, email estatetax@maine.gov or write: Maine Revenue Services, Income/Estate Tax Division, P.O. Box 1068, Augusta, ME 04332-1068.

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